

BILL ANALYSIS

S.B. 529
By: Ellis
Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

S.B. 529 makes it illegal to wilfully and knowingly sell, purchase, install, transfer, or possess any automated sales suppression device, or phantom-ware in the state. Automated sales suppression devices and phantom-ware are devices or software used to commit tax fraud. They falsify sales data on electronic cash registers at the point of sale. Merchants using these devices and software collect the full sales tax from their customers, but remit only a portion of those collections to the state. Texas could be losing sales tax, mixed drinks tax, and franchise tax revenue to sales suppression software and devices. Furthermore, these devices put law-abiding businesses at a competitive disadvantage.

Current law prohibits the act of committing tax fraud, but says nothing about the software or devices used to commit the fraud. This bill makes it a state jail felony to wilfully and knowingly sell, purchase, install, transfer, or possess these devices or software.

As proposed, S.B. 529 amends current law relating to the creation of the offense of installation, transfer, use, or possession of an automated sales suppression device or phantom-ware.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Subtitle B, Title 10, Business & Commerce Code, by adding Chapter 326, as follows:

CHAPTER 326. AUTOMATED SALES SUPPRESSION DEVICES; PHANTOM-WARE

Sec. 326.001. DEFINITIONS. Defines "automated sales suppression device," "electronic cash register," "phantom-ware," "transaction data," and "transaction report" in this chapter.

Sec. 326.002. AUTOMATED SALES SUPPRESSION DEVICES AND PHANTOM-WARE PROHIBITED; CRIMINAL OFFENSE. (a) Provides that a person commits an offense if the person knowingly sells, purchases, installs, transfers, uses, or possesses an automated sales suppression device or phantom-ware.

(b) Provides that an offense under this section is a state jail felony.

SECTION 2. Amends Article 59.01(2), Code of Criminal Procedure, to redefine "contraband."

SECTION 3. Effective date: September 1, 2013.

EFFECTIVE DATE

September 1, 2013.